

South Coast Air Quality Management District

Comments Presented to the

California Energy Commission

Petroleum Infrastructure Permitting Constraints Informational Proceeding

Petroleum Infrastructure Best Permitting Practices Workshop

January 27, 2005

Wilmington, CA

Good morning Commissioners, I'm Carol Coy, Deputy Executive Officer for Engineering and Compliance at the South Coast Air Quality Management District. I'm pleased to be here today to discuss our permitting program, which as I'll point out in my comments, plays a key role in our compliance and enforcement

“mission critical” activities. I also will overview the AQMD’s permit streamlining activities and outline our Environmental Justice program, the latter in response to Commissioner and Presiding Member Geesman’s request.

By way of introduction, the South Coast AQMD is responsible for achieving and maintaining federal and state health-based air quality standards for the 15 million residents of Orange County and the urban areas of Los Angeles, Riverside, and San Bernardino counties. We have over 26,000 facilities under permit in our jurisdiction. Our Air Quality Management Plan sets out the state and federally approved roadmap for clean air progress including the blueprint for emission reduction rules developed in an interactive public process with all stakeholders at the table. To assure the emissions reductions contemplated during rule development are achieved, these requirements are translated into permits governing the construction and operation of equipment that emits or controls the emission of air pollution. By law, one of

AQMD's major tasks is to issue these permits that comprise written authorization to build, install, alter, replace, and operate that equipment. Permits to Construct and Permits to Operate then become the basis for our field enforcement program where our inspectors regularly conduct facility inspections to assure compliance with permit conditions and federal, state, and local AQMD rules and regulations.

In general, upon receipt of an application for a Permit to Construct, AQMD engineers review the submittal to ensure the information is complete and accurate and that the proposed equipment will be built and operated consistent with applicable rules, regulations, and policies, including establishing applicable emission limits and determination of Best Available Control Technology. A Permit to Construct authorizing equipment installation is issued that may serve as a Permit to Operate under some circumstances. The permit includes conditions that limit operation or require specific actions by a source to ensure: compliance with rules and regulations;

maintaining emissions within federal New Source Review allowances; proper operation of control devices; establishment of appropriate recordkeeping and reporting mechanisms; limiting of toxic emissions; and control of dust and odors. After construction and installation is complete, AQMD verifies compliance and a Permit to Operate is issued. Compliance with permit conditions is an important responsibility. Noncompliance can subject a facility to enforcement action and fines and penalties may be assessed. Importantly, when compliance problems arise, the AQMD can revise permits to include new conditions to assure continuing compliance is attained.

Your staff has asked for us to comment specifically on our permit streamlining initiatives. Development and implementation of permit streamlining recommendations has been at the forefront of AQMD's program enhancements. In the early 1990's AQMD implemented a 12 point program named "New Directions" which was aimed to streamline permitting and assist businesses in the

preparation and submittal of more complete applications.

Subsequently, some of AQMD's New Directions initiatives were adopted into state law which required other districts to implement similar permit assistance and streamlining measures. In 1998, the AQMD Board adopted new permit streamlining initiatives and formed a Permit Streamlining Task Force consisting of Board Members, industry and environmental representatives along with AQMD staff. As a result of numerous meetings and evaluations, the Task Force developed about three dozen permit streamlining recommendations that AQMD staff has continued to implement. The improvements focussed on four distinct areas including reducing the processing steps required for permit evaluation and issuance, improving communication, optimizing permit structure and systems, and enhancing management and organizational efficiency. The recommendations were aimed to streamline processing activities and provide better customer service to the businesses that require permits from AQMD. The AQMD's Permit Streamlining Task Force is still in existence and is holding

it's next meeting on February 9, 2005, in an effort to continue development and implementation of further permit streamlining measures.

AQMD has endeavored to expedite applicant access to information on the permitting process and has provided downloadable forms and instructions, as well as our permit policy documents and guidance on the agency website. Our experience is that prompt permit processing requires a partnership between the permit applicant and AQMD permit processing engineers. Consequently, for major facilities with significant or multiple projects pending, we encourage pre-application meetings and on-going status meetings in which we solicit applicant guidance in establishing project evaluation priorities. In cooperation with project proponents, we have also established structured project processing schedules that incorporate all expected permit processing activities including parallel CEQA document preparation and public noticing to assure construction timelines can be met. This type of

coordinated effort is typically employed in the evaluation and approval process for major petroleum infrastructure projects. We believe these types of initiatives are appropriate for consideration as applicable “best permitting practices” for this industry.

As you know, AQMD is required by state law, the California Environmental Quality Act (CEQA), to review discretionary permit project applications for potential air quality and other environmental impacts. We recognize the challenges that CEQA compliance poses, regardless of who fulfills the lead agency role, and staff attempts to provide proactive technical support. The agency has developed a simplified checklist form, completed by the applicant, as a screening tool to assist in clarifying CEQA applicability to a proposed project. AQMD typically acts as lead agency, responsible for determining and preparing the appropriate environmental document, when we have primary approval authority over a project. To expedite adequate and timely document preparation, the agency has contracted with consultants

experienced with air quality analysis. In addition, where AQMD is a “responsible agency”, staff is available to the lead agency and project proponent for early consultation on a project to apprise participants of applicable rules and regulations, and to provide guidance on applicable air quality analysis methodologies. The AQMD is committed to helping others expedite compliance with CEQA and air quality planning requirements and has published the CEQA Air Quality Analysis Guidance Handbook to assist individuals with CEQA analysis and a Model Air Quality Element for city use illustrating emissions mitigation activities.

To address Commissioner Geesman’s request, I’ll quickly comment on the history of the AQMD’s Environmental Justice program. In October of 1997, the AQMD Governing Board adopted four guiding principles and ten initiatives to ensure environmental equity in agency programs. The guiding principles state that all basin residents have the right to live and work in a clean air environment, free of airborne health threats, and

recognize that government is obligated to protect public health. The principles go on to assure that the public and private sectors have the right to be informed of scientific findings and to take part in the development and implementation of adequate regulations in their communities and that the Governing Board will encourage practices that contribute to a healthy economy and a livable environment. The initial and follow-up initiatives (which became the Children's Air Quality Agenda) have evolved into an annual Environmental Justice Workplan adopted by the Board. Under the initiatives, the AQMD launched a series of Town Hall meetings during the evenings and on weekends throughout the four counties where Governing Board members and executive staff hold informal forums with interested community members, share information, and answer questions on local air quality issues. The comprehensive community Multiple Air Toxics Exposure Study (MATES) air monitoring programs were launched, diesel engine cleanup and replacement incentives were created, an Air Toxics Control Plan examining regulatory options was initiated, and the

nation's first strategy for reducing cumulative impacts was developed. The EJ program enhancements have focused in three key areas: further reduced health risks, greater community access and involvement, and economic incentives for accelerated mitigation. There is significant detailed information on the EJ program on our website and I would be happy to forward additional written details to any member of the Commission if you would like to receive it.

To explain AQMD's concern regarding retention of permitting authority over petroleum facilities, I'd like to turn my comments to the key differences between refineries and power plants with respect to permitting and compliance programs. Although you have been hearing similar comments, I will expand on this point with some examples. The turbines and boilers at electrical generating facilities present relatively simple and straightforward engineering analysis. Potential local community impacts are limited and the key chemical process of offsite impact concern is

the ammonia in the SCR air pollution control unit. NO_x and particulate emissions are readily controlled with known technology and the high stack emissions points limit local effects although the quantity of pollutants significantly contributes to regional smog formation. Of special note, however, each piece of equipment operates independently and the consequence of malfunction is limited to emissions from that specific piece of equipment and disruption of electrons flowing to the grid.

Refineries, on the other hand, are comprised of a large and complex combination of interconnected equipment that allows petroleum products to continually flow through the production process. The processes operate under high temperatures and pressures and utilize numerous chemicals and toxic compounds in the reaction processes. Modification to any one piece of equipment within this continuous process could have significant impact on the operation of the other interconnected processes and must be carefully evaluated. In addition, literally dozens of

complex federal regulations such as New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPs) apply. Breakdowns and industrial accidents have the potential to impact literally thousands of residents surrounding the facilities. This difference can be readily illustrated by looking at our agency complaint response statistics. We operate a toll free 24-hour public complaint phone line for the public to report air pollution problems and receive over 8,000 stationary source complaints per year. Inspectors investigate all complaints where adequate follow-up information is given.

These odor complaints and reports of headache or nausea can't be dismissed as simply someone opposed to siting a facility "in their backyard". We often confirm the odors in question and are able to track the emission back to a specific source and even locate the operational problem. Public nuisances may be established and Notices of Violation issued. The important thing to remember is that each of these incidents could mean that the public is being exposed to a harmful chemical compound that could impact their

health. In calendar year 2003 and 2004, we received a total of 996 (so just under 1000) public complaints of odors, smoke, oil fallout, etc. alleging refinery sources. For that same period we received 14 complaints concerning power plants, a truly significant difference fully reflective of the different nature of the two types of facilities. Generally unlike power plants, fires, explosions, and significant emission release events at refineries can have enormous local impact on residents and schools. In January 2003 three pressure relief devices lifted on a refinery Crude Fractionator due to an external power failure. Nearly 10,000 pounds, or five tons, of Volatile Organic Compounds was released in 8 ½ minutes. Were this amount of VOC emitted from a facility in a year, it would meet the threshold to become one of our 800 largest emission sources, a federal major source subject to the Title V operating permit program. Remember, this was an 8 ½ minute emission! This is not a singular event. During the same year, other pressure relief device release events expelled 5 ½, 10 ½, and even over 60 tons of emissions in a matter of minutes in each incident. In

another example, in June of 2004, 2,900 lbs. of catacarb particulate was released and fell out over a 2 mile by half mile stretch of the community. Refinery enforcement cases can be large and complex as well. Last week AQMD filed a \$183 million lawsuit against one refiner alleging thousands of violation counts as a sequel to a current civil action seeking over \$400 million for thousands of similar violations. We have already modified this refinery's permit to ensure future operation of this equipment will not result in adverse health impact. Absent permitting authority, the District would be unable to take this type of action to further protect the community.

Let there be no misunderstanding, we want the record in this proceeding to be very clear. The South Coast AQMD fully opposes any proposal to transfer permitting authority for petroleum operations to the state level and CEC. Current power plant permitting is not a streamlined process. It is a layered process. Applications are submitted to both the CEC and the air quality

district with jurisdiction. The air agencies conduct their engineering review and forward their draft permit and Determination of Compliance (DOC) to the CEC. The CEC then incorporates our DOC into the final staff assessment and Presiding Members Recommendation which ultimately goes to the full commission for approval at a public meeting. After final certification by CEC, the AQMD then can issue the federal Title V Authority to Construct to comply with State CEQA and our federal Title V program.

Refinery operations are among our largest emitters of both criteria and toxic air pollution. Refineries comprise our top seven SO_x emitters (over 5700 tons per year) and seven of the top eleven NO_x emitters (over 4600 tons per year). Petroleum facilities comprise ten of our top 15 Reactive Organic Gas (ROG) emitters.

Appropriate emissions reductions and control through local permitting and enforcement at these facilities is key to our stationary source emission reduction commitments in the State

Implementation Plan as enforced on our region at the federal level.

Upsets, as I have illustrated earlier, breakdowns, and industrial accidents pose significant risks to the local communities surrounding the facilities. To adequately administer a permitting program of this complexity, the state would need significant new staffing and expertise in application of the complicated federal statutes affecting this equipment. Delegation of federal Title V administration requires full capability to not only permit, but to enforce, federal requirements. AQMD has a full time inspector assigned to each of our refinery facilities.

Let's get real here, we're not talking about siting a new refinery in the Southern California area any time soon. We're talking about the evaluation and approval of the hundreds of ongoing significant modifications to existing processes and equipment at refineries, storage, and terminal facilities. AQMD received nearly 800 Refinery/Energy permit applications last year and issued over 1000 permits. I believe it's important to note that our District has a track

record of successfully partnering with our local refinery facilities to meet federal and state deadlines, most recently for production of new clean fuel formulations, for which all permits were timely issued and all infrastructure modifications completed to deliver the required fuel in full compliance with state deadlines.

That said, South Coast AQMD staff stand ready to continue to assist the CEC in your development of permitting recommendations and the Petroleum Infrastructure Environmental Performance Report. To that end, we hosted the interagency local district/state meeting last week and are currently compiling the requested data for transmittal to your staff. We are anxious to help the Commission evaluate environmental impacts and issues associated with your discussions and proposals and are interested in any permitting program suggestions and comments you develop.

Thank you for the opportunity to share this information with you this morning.